

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 844

Introduced by Assembly Member Berryhill
(Principal coauthors: Assembly Members Galgiani and Maze)
(Principal coauthors: Senators Cogdill and Maldonado)

February 22, 2007

An act to ~~amend Sections 21601, 21603, 21604, 21605, and 21606~~
~~of, and to add Section 21609.5 to, add Sections 21608.5 and 21610 to~~
the Business and Professions Code, relating to junk dealers.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as amended, Berryhill. Junk dealers and recyclers: ~~scrap~~
~~metals and alloys; nonferrous material.~~

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law requires these records to include specified information, including, among other things, the place and date of each sale or purchase of junk, a description of the item of junk, and the personal and vehicle information of the person purchasing or transporting the junk. Existing law exempts certain purchases of scrap metals by a junk dealer or recycler from these provisions. A violation of these provisions regulating junk dealers and recyclers is a crime.

~~This bill would revise the definition of a junk dealer and delete the provisions exempting certain purchases of scrap metals from the provision regulating junk dealers. The bill would exempt automobile~~

dismantlers, as defined, from the provisions regulating junk dealers. The bill would require the written records of junk dealers and recyclers to include a physical description, or photograph or video, of a person from whom junk is purchased. The bill would require the records to include a description of the material, type, quantity, weight, and size of junk purchased or sold. The

This bill would prohibit a junk dealer or recycler from providing payment for scrap metals and alloys nonferrous material, as defined, unless, except as specified, the payment is made by check and, the check is provided at least 10 no earlier than 3 days from after the date of sale, and the dealer or recycler obtains certain identifying information, as specified, to be retained by the dealer or recycler for a certain period of time. The bill would require a junk dealer or recycler to hold all scrap metals and alloys in the same condition in which they were received for a minimum of 15 days before they could be released or disposed of, unless specified photograph or video records are maintained. The bill would specify that this provision does not apply to the redemption of nonferrous materials of a certain value at a recycling center. The bill would also prohibit a city, county, city and county, or a state agency from adopting reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material.

Because a violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21608.5 is added to the Business and
- 2 Professions Code, to read:
- 3 21608.5. (a) A junk dealer or recycler in this state shall not
- 4 provide payment for nonferrous material unless, in addition to
- 5 meeting the written record requirements of Sections 21605 and
- 6 21606, all of the following requirements are met:
- 7 (1) The payment for the material is made by check.

1 (2) *The junk dealer or recycler provides the check no earlier*
2 *than three business days after the date of sale. The check may be*
3 *mailed to the seller or may be collected by the seller from the junk*
4 *dealer or recycler.*

5 (3) *The junk dealer or recycler obtains a photograph and an*
6 *address of the seller; a copy of the valid driver's license of the*
7 *seller containing a photograph and an address of the seller; or a*
8 *copy of a state or federal government-issued identification card*
9 *containing a photograph and an address of the seller. The junk*
10 *dealer or recycler shall preserve the photograph and the address*
11 *or the copies obtained pursuant to this paragraph for a period of*
12 *two years after the date of sale.*

13 (b) *The requirements of paragraphs (1) and (2) of subdivision*
14 *(a) shall not apply if, during a three-month period commencing*
15 *on or after the effective date of this section, the junk dealer or*
16 *recycler averages five or more separate transactions with the*
17 *seller.*

18 (c) *The requirement of paragraph (2) of subdivision (a) shall*
19 *not apply if, in addition to obtaining the identifying information*
20 *required in paragraph (3) of subdivision (a), the junk dealer or*
21 *recycler obtains a photograph of the nonferrous material being*
22 *purchased. This photograph shall be preserved for a period of two*
23 *years after the date of sale.*

24 (d) *This section shall not apply if, on the date of sale, the junk*
25 *dealer or recycler has on file or receives all of the following*
26 *information:*

27 (1) *The name, physical business address, and business telephone*
28 *number of the seller's business.*

29 (2) *The business license number or tax identification number*
30 *of the seller's business.*

31 (3) *A copy of the valid driver's license of the person delivering*
32 *the nonferrous material on behalf of the seller to the junk dealer*
33 *or the recycler.*

34 (e) *This section shall not apply to the redemption at a recycling*
35 *center of nonferrous materials that, in total and in a single*
36 *transaction, have a value of no more than twenty dollars (\$20).*

37 (f) *For purposes of this section, the following definitions apply:*

38 (1) *"Nonferrous material" means copper, copper alloys,*
39 *stainless steel, or aluminum but does not include beverage*

1 containers, as defined in Section 14505 of the Public Resources
2 Code.

3 (2) “Recycling center” has the same meaning as that term is
4 defined in Section 14520 of the Public Resources Code.

5 SEC. 2. Section 21610 is added to the Business and Professions
6 Code, to read:

7 21610. This article shall not prohibit the enactment,
8 amendment, or enforcement of an ordinance or resolution by a
9 city, county, or city and county relating to junk dealers or recyclers
10 that is not inconsistent with this article, except that no city, county,
11 city and county, or state agency shall adopt reporting,
12 identification, or payment requirements for transactions by junk
13 dealers or recyclers involving nonferrous material as defined in
14 Section 21608.5.

15 ~~SECTION 1. Section 21601 of the Business and Professions~~
16 ~~Code is amended to read:~~

17 ~~21601. As used in this article, “junk dealer” includes any person~~
18 ~~engaged in the business of buying, selling and dealing in junk, any~~
19 ~~person purchasing, gathering, collecting, soliciting or traveling~~
20 ~~about from place to place procuring junk, any person operating,~~
21 ~~carrying on, conducting or maintaining a junk yard or place where~~
22 ~~junk is gathered together and stored or kept for shipment, sale or~~
23 ~~transfer, and any agents and employees of any of those persons.~~

24 ~~SEC. 2. Section 21603 of the Business and Professions Code~~
25 ~~is amended to read:~~

26 ~~21603. This article shall not apply to any of the following:~~

27 ~~(a) Secondhand furniture merchants.~~

28 ~~(b) Pawnbrokers.~~

29 ~~(c) Secondhand car dealers or merchants in connection with~~
30 ~~automobile and motor vehicle sales agencies but not carried on~~
31 ~~and conducted in conjunction with a junk yard.~~

32 ~~(d) Persons engaged in the business of selling new automobile~~
33 ~~tires or batteries or other equipment taking in part payment used~~
34 ~~articles of the same kind and thereafter selling or disposing of the~~
35 ~~same.~~

36 ~~(e) Secondhand oil well supply and equipment dealers not~~
37 ~~conducting or carrying on their business in connection with a junk~~
38 ~~yard.~~

39 ~~(f) Secondhand clothing merchants and ragpickers.~~

1 ~~(g) Automobile dismantlers, as defined in Section 220 of the~~
2 ~~Vehicle Code.~~

3 ~~SEC. 3. Section 21604 of the Business and Professions Code~~
4 ~~is amended to read:~~

5 ~~21604. Except as otherwise provided in this article, this article~~
6 ~~does not apply to any person who buys or sells junk acquired in~~
7 ~~the conduct of any business other than that of a junk dealer.~~

8 ~~SEC. 4. Section 21605 of the Business and Professions Code~~
9 ~~is amended to read:~~

10 ~~21605. (a) Every junk dealer and every recycler in this state~~
11 ~~is hereby required to keep a written record of all sales and~~
12 ~~purchases made in the course of his or her business.~~

13 ~~(b) For purposes of this article, "recycler" means any processor,~~
14 ~~recycling center, or noncertified recycler, as those terms are defined~~
15 ~~in Chapter 2 (commencing with Section 14502) of Division 12.1~~
16 ~~of the Public Resources Code, who buys or sells scrap metals and~~
17 ~~alloys that constitute junk.~~

18 ~~SEC. 5. Section 21606 of the Business and Professions Code~~
19 ~~is amended to read:~~

20 ~~21606. (a) Every junk dealer and every recycler shall set out~~
21 ~~in the written record required by this article all of the following:~~

22 ~~(1) The place and date of each sale or purchase of junk made~~
23 ~~in the conduct of his or her business as a junk dealer or recycler.~~

24 ~~(2) The name, physical description, unless a photograph or video~~
25 ~~is available, and valid driver's license number and state of issue~~
26 ~~or California-issued identification card number of the person from~~
27 ~~whom the junk is purchased, and the vehicle identification number~~
28 ~~and license number including the state of issue of any motor vehicle~~
29 ~~used in transporting the junk to the junk dealer's or recycler's place~~
30 ~~of business.~~

31 ~~(3) The name and address of each person to whom junk is sold~~
32 ~~or disposed of, and the license number of any motor vehicle used~~
33 ~~in transporting the junk from the junk dealer's or recycler's place~~
34 ~~of business.~~

35 ~~(4) A description of the junk purchased or sold, including its~~
36 ~~material, type, quantity, weight, size, and identification number,~~
37 ~~if visible.~~

38 ~~(5) A statement indicating either that the seller of the junk is~~
39 ~~the owner of it, or the name of the person he or she obtained it~~
40 ~~from, as shown on a signed transfer document.~~

1 ~~(b) Any person who makes, or causes to be made, any false or~~
2 ~~fictitious statement regarding any information required by this~~
3 ~~section, is guilty of a misdemeanor.~~

4 ~~SEC. 6. Section 21609.5 is added to the Business and~~
5 ~~Professions Code, to read:~~

6 ~~21609.5. (a) A junk dealer or recycler in this state shall not~~
7 ~~provide payment for scrap metals and alloys unless the payment~~
8 ~~is made by check and the payment is provided at least 10 days~~
9 ~~from the date of sale.~~

10 ~~(b) A junk dealer or recycler in this state shall hold all scrap~~
11 ~~metals and alloys in its custody in the same condition in which~~
12 ~~they were received for a minimum of 15 days before the scrap~~
13 ~~metals and alloys may be released or disposed of.~~

14 ~~(c) The requirements of subdivision (b) shall not apply to junk~~
15 ~~dealers and recyclers that keep on record a photograph or video~~
16 ~~of an individual selling scrap metals and alloys and a photograph~~
17 ~~or video of the scrap metals and alloys sold. These photographs~~
18 ~~and videos shall include the date and time the scrap metals or alloys~~
19 ~~were purchased and shall be preserved for at least two years after~~
20 ~~any purchase or sale of junk, scrap metals, or alloys pursuant to~~
21 ~~Section 21607.~~

22 ~~SEC. 7.~~

23 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
24 ~~Section 6 of Article XIII B of the California Constitution because~~
25 ~~the only costs that may be incurred by a local agency or school~~
26 ~~district will be incurred because this act creates a new crime or~~
27 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
28 ~~for a crime or infraction, within the meaning of Section 17556 of~~
29 ~~the Government Code, or changes the definition of a crime within~~
30 ~~the meaning of Section 6 of Article XIII B of the California~~
31 ~~Constitution.~~